

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

FILED

FEB 11 2005

UNITED STATES OF AMERICA,
Plaintiff,

U.S. DISTRICT COURT
CLARKSBURG, WV 26301

v.

Criminal No. 1:05CR4

DANIEL WILSON TESTERMAN
Defendant.

GOVERNMENT'S MOTION FOR EXTENSION OF TIME
AND MOTION TO CONTINUE

Now comes the United States of America, and Thomas E. Johnston, United States Attorney for the Northern District of West Virginia, by Sherry L. Muncy, Assistant United States Attorney, and moves the Court to extend the time to respond to the defendant's motion to suppress and to request a continuance of the motions hearing. In support of these requests, the governments states the following;

1.) The defendant has filed a motion to continue both the pre-trial and the trial of this matter due to scheduling conflicts. The defendant has waived his right to speedy trial. The government has responded that it does not object to either of these two motions.

2.) The original scheduling order scheduled a deadline for the government's response to any motions of the defendant on February 17, 2005; and further scheduled any hearing thereon for Wednesday, February 23, 2005 before the Magistrate Judge

3.) The motion to suppress timely filed by the defendant on February 7, 2005, will certainly require testimony. The government is pursuing this case based on a state search warrant obtained by Deputy Michael Kelley of the Ritchie County Sheriff's Office. The government's response to this motion is currently due on February 17, 2005. On February 10, 2005, the government contacted Deputy Kelley to learn that he was having minor heart surgery on February

11, 2005 and would be unavailable to assist the government in its response until February 15 at the earliest.

4.) The Assistant assigned to this case is scheduled to be in training in Columbia, South Carolina from February 22 through February 25, 2005 and the date currently scheduled for the motions hearing if February 23, 2005.

5.) Particularly in light of the fact that the defendant has moved for a continuance of the pre-trial and the trial in this matter, the government will be able to more properly prepare its response to the motion to suppress, and to prepare testimony for the hearing if the deadlines are extended and the hearing continued.

WHEREFORE, the government requests the Court extend the government's deadline to respond to motions, and to continue the motions hearing date.

Respectfully submitted,

UNITED STATES ATTORNEY
Thomas E. Johnston

By:

Sherry L. Mancy, AUSA

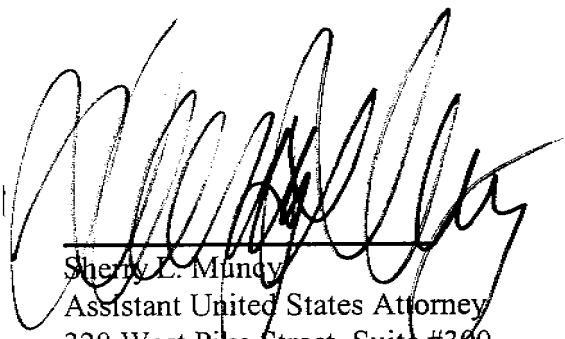
CERTIFICATE OF SERVICE

I, Sherry L. Muncy, Assistant United States Attorney for the Northern District of West Virginia, do hereby certify that a copy of the foregoing GOVERNMENT'S MOTION FOR EXTENSION OF TIME AND MOTION TO CONTINUE was served upon counsel for the defendant, Daniel Wilson Testerman, by first class mail addressed to:

George J. Cosenza
Cosenza & Merriman, PLLC
515 Market Street
P. O. Box 4
Parkersburg, WV 26102.

Dated:

Feb. 11, 2005



Sherry L. Muncy
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